

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

In Re: Hawar Abdi d/b/a Bonus Building Care)
 Personal Property Account #P-136681) Davidson County
 Tax Year 2007)

INITIAL DECISION AND ORDER FINDING JURISDICTION

Statement of the Case

The Davidson County Assessor of Property ("Assessor") has valued the subject property for tax purposes as follows:

APPRAISAL	ASSESSMENT
\$57,600	\$17,280

On August 3, 2007, the State Board of Equalization ("State Board") received an appeal by the taxpayer. As indicated on the appeal form, this assessment was not appealed to the Davidson County Board of Equalization ("county board") during its regular annual session for tax year 2007.

The undersigned administrative judge conducted a hearing on this matter on March 10, 2008 at the Davidson County Assessor's Office. Present at the hearing were the taxpayer, Hawar Abdi d/b/a Bonus Building Care, Allen Morgan, from the Davidson County Assessor's Office, Personalty Division and Jenny Hayes, attorney from the Metro. Legal Department representing the interest of the Assessor's Office.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. T.C.A. §§ 67-5-1401 & 67-5-1412 (b). A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. T.C.A. §§ 67-5-508(b) (2); 67-5-1412 (e). Nevertheless, the legislature has also provided that:

The taxpayer shall have a right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such **reasonable cause**, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year subsequent to the year in which the assessment is made (*emphasis added*).

In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control**. (*Emphasis added*), *Associated Pipeline Contractors Inc.*, (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Davidson County Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief.

In this case, the taxpayer, Mr. Abdi, did not appeal to the Davidson County Board of Equalization in a timely fashion because according to his testimony and the appeal form the "County referred me to the State". He also indicated that he did not know he was to file a schedule B as required by statute because this was his first year in business. The record shows that the notice was sent to Bonus Building Care/ Hawar Abdi at 810 Division Street in Nashville, TN, 37203, which according to the testimony is not the correct address of the business or the taxpayers' home address.

Tenn. Code Ann. § 67-5-1412(b) (1) provides that:

The taxpayer or owner must first make complaint and appeal to the local board of equalization unless the taxpayer or owner has not been duly notified by the assessor of property of an increase in the taxpayer's or owner's assessment or change in classification as provided for in section 67-5-508.

Here Mr. Abdi did not receive the Notice of Assessment because of some error in the mailing system, so he effectively had no way of complying with the statute.

In 1991, the General Assembly amended Tenn. Code Ann. § 67-5-1412(e) by adding the following language:

The taxpayer or owner shall have the right to a hearing and determination to show **reasonable cause** for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the (State Board) shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Mr. Abdi, in the opinion of the Administrative Judge, has demonstrated that there is reasonable cause to excuse his failure to go to the County Board.

ORDER

It is, therefore, ORDERED that this appeal shall be docketed for further hearing on the issue of value. A Notice of Hearing shall accordingly be sent to the taxpayer and the County.

ENTERED this 31st day of March, 2008.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Hawar Abdi
Jo Ann North, Assessor of Property